

#### REMARKS

The claims have been amended to more clearly define the invention as disclosed in the written description. In particular, the claims have been amended for clarity.

The Examiner has rejected claims 1-11 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,764,619 to Nishiuchi et al.

The Nishiuchi et al. patent discloses an optical recording medium having two separate recording layers.

Applicants submit that Nishiuchi et al. neither discloses nor suggests the first recording stack  $L_0$  having a recordable type  $L_0$  recording layer comprising a dye, in which the first  $L_0$  guide groove has a depth  $G_{L0} < 100$  nm.

A recordable medium comprising a dye recording layer is essentially different from a rewritable medium comprising phase change recording layers. See, e.g., page 2, lines 24-34 of the specification as filed, where it is described that typically a recording medium including a dye recording layer has groove depths much larger than 100 nm, e.g., about 200 nm. This is because the dye recording layer typically is much thicker than a phase change type recording layer which has several implications for the optical stack design. The medium claimed in claim 1 is a so-called inverted  $L_0$  stack design. From a dual-stack medium production point of view, an inverted  $L_0$  stack structure is preferred which means that the recording layer of the  $L_0$  stack is present at a side of the

reflective layer other than the side of the substrate with groove structure (see page 3, lines 6-9 of the specification as filed).

According to the invention, the first  $L_0$  guide groove has a depth  $GL_0 < 100$  nm. For a dye medium this is not at all conventional see, e.g., EP1067535A2 as mentioned on page 2, line 24 of the specification as filed.

Applicants submit that a person skilled in the art starting from Nishiuchi et al. and confronted with the problem of how to achieve a recordable dual stack medium which has a reflection value of the  $L_0$  recording stack higher than 25%, preferably higher than 50%, at a radiation beam wavelength of approximately 655 nm, would not have an incentive to apply a dye  $L_0$  recording stack of the inverted type because Nishiuchi et al. does not mention such a dye  $L_0$  recording stack of the inverted type.

In view of the above, Applicants believe that the subject invention, as claimed, is neither anticipated nor rendered obvious by the prior art, and as such, is patentable thereover.

Applicants believe that this application, containing claims 1-11, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

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